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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,842	05/04/2005	Ian Clarke	P/3653-12	6092
2352	7590	11/01/2006		
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
			EXAMINER WIEST, PHILIP R	
			ART UNIT 3761	PAPER NUMBER

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/533,842	CLARKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Phil Wiest	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,7,9-11,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,9-11,14 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04 May 2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. The term "relatively flat" in claim 14 is a relative term which renders the claim indefinite. The term "relatively flat" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The term "relatively flat" does not adequately disclose to what extent the apparatus is wider than it is tall.

3. Claim 15 recites the limitation "gas regulator" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. The examiner assumes that gas regulator is the same as the pressure regulator disclosed in Claim 1. Appropriate correction is required.

Claim 15 recites the limitation "pressure vessel" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. In order to cite the pressure vessel, it must first be disclosed in Claim 15 or one of the claims from which it depends.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 9, 11, 14, and 15, as best understood by Examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Keime (GB 2,165,312).

6. With respect to Claims 1-3, Keime discloses an apparatus 1 for controlled dispensing of a liquid from a flexible bag 2 comprising a chamber 4 adapted to contain the flexible bag 2, and an outlet 16 adapted to receive an outlet conduit 15 communicating with the flexible bag 2. A source of gas 19 is arranged to release gas into the chamber 4, applying pressure to the exterior walls of the flexible bag 2, and a pressure regulator 23 is arranged to control the pressure applied to the bag, thus causing fluid to be dispensed from the bag in a controlled manner. Keime further discloses that the chamber is substantially gas-tight (Page 2, Lines 2-5), as per Claim 2. The outlet 16 is fitted with a gasket 14 which is adapted to seal the chamber, and the gas supply 19 is arranged to supply gas under pressure to the interior of the chamber 4. Regarding Claim 3, the pressure regulator 23 is arranged to regulate the flow of gas from the source to the chamber (Page 2, Lines 29-36).

7. With respect to Claims 9 and 11, Keime discloses that the source of gas comprises a pressure vessel 19 of pre-compressed gas. Additionally, Keime discloses that the flexible bag 2 is a clear and capable of containing medical fluids (a medical supply bag), as per Claim 11 (Page 1, Lines 105-112).

8. With respect to Claims 14 and 15, Keime discloses that the chamber is a relatively flat cuboidal configuration having a depth significantly less than the length or

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width of the chamber. See Figures 1 and 2. Keime further discloses that the pressure vessel 19 and gas regulator alongside the chamber 4 in a common housing 1 with the rest of the apparatus. The pressure vessel 19 and pressure regulator 23 are arranged such that they are contained within the depth of the housing 1. See Figures 2 and 3.

9. Claims 1-4, 7, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Laing (CA 2,083,555).

10. With respect to Claims 1-4, Laing discloses an apparatus 10 for controlled dispensing of a liquid from a flexible bag 40 comprising a chamber 20 adapted to contain the flexible bag 40, and an outlet (48 and 49) adapted to receive an outlet conduit 45 communicating with the flexible bag 40. A source of gas 58 is arranged to release gas into the chamber 20, applying pressure to the exterior walls of the flexible bag 40, and a pressure regulator 50 is arranged to control the pressure applied to the bag, thus causing fluid to be dispensed from the bag in a controlled manner. Regarding Claim 2, the air bag portion 30 of the chamber 20 is substantially air tight. The outlet (48 and 49) comprises a clamp 28 and a needle 29 adapted to seal the chamber (Page 11, Lines 3-26), and the gas supply 58 is arranged to supply gas under pressure to the interior of the chamber 20. Regarding Claim 3, the pressure regulator 50, which comprises air pump 58, microprocessor 56, and pressure transducer 55, is arranged to regulate the flow of gas from the source to the chamber (Page 12, Lines 15-20). Laing further discloses that the source of gas 58 is connected to an inflatable bladder 30 such that the inflatable bladder is in contact with at least a portion of the exterior wall of the air bag 40. See Figure 1.

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11. With respect to Claim 7, Laing discloses that the inflatable bladder 30 comprises an inflatable sock adapted to wrap around at least a portion of the flexible bag 40 (see Figure 1). An "inflatable sock" is interpreted by the examiner as being any type of bag that is able to be filled with air.

12. With respect to Claims 10 and 11, Laing discloses that the source of gas is a reservoir 35 pressurized by a pump 58 (see Figure 1). The pump 58 is controlled by the microprocessor 56 in order to change the pressure in the inflatable bladder 40, thus controlling the flow rate of fluid from the flexible bag 40.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ross et al. (US 5,207,645) disclose a fluid bad comprising an infusion pump that transfers fluid by applying pressure to the bag.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phil Wiest whose telephone number is (571) 272-3235. The examiner can normally be reached on 8:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PRW  
10/19/2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

